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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/099,692	03/15/2002	Paul Gaudron	056409-5050	4904

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MORGAN LEWIS & BOCKIUS LLP
1111 PENNSYLVANIA AVENUE NW
WASHINGTON, DC 20004

EXAMINER

BUI, LUAN KIM

ART UNIT	PAPER NUMBER
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3728

DATE MAILED: 02/19/2004

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/099,692

Applicant(s)

GAUDRON, PAUL

Examiner

Luan K Bui

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-42 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 30 is/are allowed.
- 6) ☒ Claim(s) 1,2,4-16,18-29,31,32 and 34-42 is/are rejected.
- 7) ☒ Claim(s) 3,17 and 33 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>2</u> . | 6) <input type="checkbox"/> Other: ____. |

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 4, 11, 14 and 15 are rejected under 35 U.S.C. 102(b) as being anticipated by Ernst et al. (5,069,340; hereinafter Ernst'340). Ernst'340 discloses a nail holder strip (10) having a plurality of nail holders (30, 32) comprising a support base (34) for holding and supporting a nail (12), a passage (54, 58) in the support base for receiving the nail therethrough, a stiffening stem (36) positioned adjacent to the passage and to the support base and each of the plurality of nail holders is releasably attached to form the nail holder strip by a breakable bridge (74, 76). Ernst'340 discloses the passage comprises a first portion (54) and a second portion (58) having different diameter than the first portion.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 2, 5-7, 10, 16, 18-21, 24, 25, 28 and 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ernst et al. (5,069,340; hereinafter Ernst'340) in view of Lin (5,775,514). Ernst'340 discloses the nail holder strip (10) as above most of the limitations as

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claimed except for a protrusion within the passage so as to provide a releasable frictional hold on the nail. Lin teaches a holder strip (1) having a plurality of holders for holding fasteners comprising a support base (6) having a passage (5) and a protrusion (8) disposed within the passage. It would have been obvious to one having ordinary skill in the art in view of Lin to modify the holder strip of Ernst'340 so each passage includes a protrusion disposed within the passage so as to provide a releasable frictional hold on the nail for better securing the nails within the holder strip.

5. Claims 8, 9, 12, 13, 22, 23, 26, 27, 31, 32 and 34-42 are rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claims 1 and 6 above, and further in view of Huang (5,803,691). Ernst'340 further fails to show the holder strip includes a brace adjacent to the support base and the stiffening stem. Huang shows a holder strip (1) having a plurality of holders comprising a support base (4) having a passage, a plurality of stiffening stems (3) positioned adjacent to the passage and to the support base and a brace (31) disposed on each of the stiffening stem. It would have been obvious to one having ordinary skill in the art in view of Huang to modify the holder strip of Ernst'340 so it includes a brace disposed adjacent to the support base and at least one of the stiffening stems to provide an additional strength and rigidity to the holder strip.

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Allowable Subject Matter

6. Claims 3, 17 and 33 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

7. Claim 30 is allowed.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Luan K. Bui whose telephone number is (703) 305-5861. If in receiving this Office Action, it is apparent to Applicant that certain documents are missing from the record for example copies of references cited, form PTO-1449, form PTO-892, etc., requests for copies of such papers should be directed to TC 3700 Customer Service at (703) 306-5648.

Any inquiry of a general nature or relating to the status of this application should be directed to the Customer Service whose telephone number is (703) 872-9301. Facsimile correspondence for this application should be sent to (703) 872-9306 for Formal papers and After Final communications.

lkb
February 17, 2004



Luan K. Bui
Primary Examiner